



**CITY COUNCIL MEETING  
CITY COUNCIL CHAMBERS  
WALLACE J. PUCHALSKI MUNICIPAL BUILDING  
212 MAIN STREET, NORTHAMPTON  
Northampton, MA  
October 6, 2016**

**Roll Call**

A regular meeting of the City Council was called to order by City Council President William H. Dwight. At 7:15 pm on a roll call the following City Councilors were present:

At-Large Councilor William H. Dwight      At-Large Councilor Ryan R. O'Donnell  
Ward 1 Councilor Maureen T. Carney      Ward 2 Councilor Dennis P. Bidwell  
Ward 3 Councilor (Vacant)      Ward 4 Councilor Gina-Louise Sciarra  
Ward 5 Councilor David A. Murphy      Ward 6 Councilor Marianne L. LaBarge

The following City Councilor(s) was (were) absent: Ward 7 Councilor Alisa F. Klein  
Councilor Sciarra was named to the Enrollment Committee by Councilor Dwight.

**Public Hearing**

**Public Hearing:**

**Tax  
Classification  
Public Hearing**

**Tax Classification Public Hearing**

**Motion to open  
Public Hearing**

At 7:16 p.m. Councilor Murphy moved to open the Public Hearing; Councilor LaBarge, seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Motion Carried**

Northampton's Director of Economic and Community Development Terry Masterson noted that it is great to have a chance to speak to a single tax rate for Northampton. There are a few reasons to argue for it, including that the City's rate is one of the lowest in the area and the region. When you compare the rate to some of the other areas in New England, it is very low. The current rate here is \$16.39; Hartford's downtown office property tax rate is \$76 per \$1,000. Stamford or White Plains is anywhere from \$25 to \$40 per \$1,000. Some of the cities in the valley have a commercial rate which is anywhere from \$25 - \$30 or more per \$1,000. Northampton's rate is a compliment to the City and is an advocacy tool for the businesses that are here and also for ones that want to move here. Another benefit of a single rate is that by being able to say up front that the rate is \$16, a business can understand that this is a real number and not a promise or an incentive letter or something that is subject to approval. This is very effective and positive for the City. When companies ask for incentives, the argument that the tax rate @ \$16.39 is already an effective answer that does persuade a lot of businesses to reconsider their ask. When you look at some of the communities in the Valley that have the split rate, if they had the choice to go back to a single tax rate, Director Masterson believes that they would choose to do so. When the City did its casino impact study, a very significant business person stated to the consultants that he did business in Northampton because if he went to another City the tax rate would be double or at least 40% more than what is paid here. That is a very revealing comment and a candid reflection about how the cost of doing business is perceived in the City. Director Masterson also noted that the City of Yonkers levies an income tax. It is only ¼ of 1%, however, businesses wondered what the rate would be next year or five years from now. Once the door is open, it creates this question of uncertainty. Finally, Director Masterson notes that the move of Check Writers to the Clark School Campus is a reflection of a business that sees the City as a positive place to be. They appreciate the value of the downtown; it's a client driven business that will encourage clients to come here and generate consumer spending. The business wants to be within walk able distance of the downtown. They are coming from a community that has a split tax rate and this is part of their consideration as well. Overall the City should continue to maintain a single tax rate.

Suzanne Beck lives at 691 Park Hill Road in Florence. She is speaking on behalf of the Greater Northampton Chamber of Commerce where she is the Executive Director. Director Beck supports a single tax rate. It is probably the single most advantageous policy that the City has in place to encourage investment and development of the commercial tax base. More importantly, the City has been consistent in supporting a single rate which gives developers

**Tax**  
**Classification**  
**Public Hearing**  
**Continued**

and investors assurance in a steady policy. A few months ago the Mayor's Office issued a report on new commercial and residential development in Northampton that totaled \$177 million. This contrasts with the 2013 inventory of commercial development which totaled \$81 million. This number included the Fairfield Inn and some redevelopment on King St. and was considered a very positive number. The growth has been significant. The Mayor's Office has also tracked upward trends in meals taxes and hotel taxes which indicates a combination of both increased traffic and some elasticity in pricing. All of these factors indicate some evidence of reliability of the single tax rate working in favor of Northampton's ability to attract investment. While it is a balancing act, and the regulatory environment does create some concern, it does support continuing with a single tax rate. On behalf of the Chamber, Director Beck is hopeful that the City would continue with a single tax rate policy.

Assessor Joan Sarafin recapped that the 2016 tax rate was \$16.16. The FY2017 tax rate is expected to be \$16.73 which is a \$0.53 increase. The reason for the increase is that the City will be raising about \$2.5 million in tax levy this year. The tax levy increase is as a result of the annual 2.5% (\$1,309,776), new growth is at \$847,701 and there are increase payments for the debt exclusion of \$335,050. Principal and interest on the three debt exclusion projects (fire station, high school, and police station) total \$1,093,417. The fire station debt exclusion ends in 2019; the high school debt exclusion ends in 2020. If the City has a single tax rate of 1, it means that all property classes will pay the same rate. The City could shift the burden onto commercial properties (including commercial, industrial, and personal property). Property values are high and rents are also high. The best thing that the City ever did was to stay with an even rate for all property classes. In other communities, the only way that they can get commercial businesses to come to their community is to promise a T.I.F. or some other incentive. It is ideal to have a single rate for all property classes. For the average house the taxes would increase \$173 per year. If the City were to shift the burden to commercial properties, the new rate for residential would be \$14.62 while commercial rates would jump to \$25.09. Assessor Sarafin notes that 80% of the tax levy comes from residential homes while 20% comes from commercial/industrial/personal property taxes. Every time you take \$1.00 off the residential, it adds \$2 to the commercial/industrial/personal property tax burden. This is a significant bump and Assessor Sarafin does not believe that commercial businesses can handle this increase. In 2003, the tax burden was 76% residential and 24% commercial/industrial/personal property. It went as high as 80% for residential; for the last five years the City has been at 79%. With all of the new building permits and all the building going on, Assessor Sarafin is surprised at the continued rate of 79-80%. The DOR notes that if there is no more that 20% commercial, cities don't raise the commercial tax levy. At this time the City does not have a lot of commercial value. Among her colleagues, Assessor Sarafin notes that it is advisable to maintain a factor of 1 if possible.

**Motion to close**  
**Tax**  
**Classification**  
**Public Hearing**

At 7:33 pm Councilor LaBarge moved to close the Public Hearing; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Motion Carried**

Councilor Dwight notes that the City has a conversation about its tax levy on an annual basis, especially during campaign season. Councilor Dwight notes that the City of Holyoke currently has the highest commercial tax rate in the state and there are consequences associated with this policy. Historically this evolved when Holyoke was a booming industrial city. It was appropriate for the commercial businesses to assume a greater tax burden. As industries left the City, the tax rate stayed the same. The difficulty is getting the constituency to accept a larger burden of tax responsibility. The City then gets trapped in a situation where you then need to provide incentives for businesses to come into the City. Springfield goes for larger ticket items, like the Basketball Hall of Fame, but Northampton does not do this. This has helped the City maintain its consistent approach to a single tax rate. Northampton has a manageable and appealing community for investors. Councilor Dwight has never proposed a split tax rate. It has been discussed in relation to affordability in the City.

Councilor O'Donnell agrees with Councilor Dwight. This issues serves as a stand in for a broad brush question of how pro business or anti-business the City may be. In Councilor O'Donnell's opinion, the single tax rate in and of itself, the decision to set a certain ratio is not really the goal. Setting the tax rate is a tool to accomplish a goal which others have explained has a public benefit. Councilor O'Donnell doesn't believe that there is anything set in stone or immutable about a single tax rate being the right course of action. He believes it is only right

when you can identify a clear public benefit. While you might have the ability to argue about whether the parody that is decided to be established between certain classes of property, you can argue about whether this is fair in each individual case. One should also pay attention to the overall benefit that everyone in the City gets by buoying the local economy. Theoretically, the set tax rate is implying that residential property is going to be equivalent to industrial and commercial. He questions whether two commercial properties, one with thriving businesses in them that contribute to the local economy while the other property is mostly vacant for a long period of time contribute an equal benefit to the entire community. He recognizes that the City cannot create another class of property for absentee landlords and vacant properties; however, it is apparent that the vacant store fronts are not contributing to a public benefit. It is for the public benefit that Councilor O'Donnell supports a factor of 1.

Councilor Murphy notes that there is incentive to keep properties rented. In commercial real estate, the leases are "triple net", meaning that the property taxes flow from the owner to the tenants. The tenants of a commercial building share a portion of the tax bill, except when the space is empty. When there is no tenant, the owner of the building has to pay the tax because there is no tenant to defer to.

Councilor Dwight asked Mayor Narkewicz about a home rule petition to the legislature to ask for a special tax classification that is specifically directed at long term vacancies. Mayor Narkewicz was unable to speculate about this but agrees that it would require a home rule petition. He is not aware of any community that has been granted a home rule petition to levy a tax. He also stated that there might be a perception that an owner with an empty building might pay fewer taxes; however, this is not the case. The same amount of tax is due whether the building is empty or not. This would raise questions about empty residences. Knowing the legislature, Mayor Narkewicz explained that they don't typically grant a unique taxation power to just one community. It would typically have to be a holistic change, like the local meals or hotel/motel tax that all communities were granted.

Councilor Bidwell commented about the special legislative act that was talked about. He believes that what we have seen in the case of the one property owner is that he would appear to not respond to the normal clues in the market place as to what one would do with their property. There is huge incentive to lease the property but he hasn't responded to that. With regard to the factor of one, Councilor Bidwell is pleased to support the proposal. He believes that it is an important tool to attract new development to the City. With the constraints of proposition 2-1/2, there is so little else the City can do to keep up with the need to pay for services. We can, however, attract new business. It is also a huge factor in retaining the business that is already here. As a real estate consultant, Councilor Bidwell had the opportunity to do a relocation study for a business in town that was considering rebuilding elsewhere. There were a lot of factors that went into their decision to stay in Northampton, but the tax rate was a huge part of their decision. He is pleased to support the continuation of a factor of one.

Councilor O'Donnell clarified that he was not going on the assumption that vacant properties pay less property taxes. He was going on the assumption that they might pay more to increase the incentive that Councilor Murphy and Councilor Bidwell have identified. He does recognize that it would be a cheerful wish that the legislature would give the City that power.

Councilor Dwight noted that the measure would not apply to any specific property owner. This would be applied "across the board".

**Cumberland  
Farms License  
Petition for Fuel  
Storage Public  
Hearing**

**Cumberland Farms License Petition for Fuel Storage**

**Motion to open  
Public Hearing**

At 7:49 Councilor Murphy moved to open the public hearing; Councilor LaBarge seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Cumberland**

**Farms Public  
Hearing  
Continued**

**Proponents:**

Attorney Tom Reidy is representing Cumberland Farms; Attorney Reidy is an Associate for Bacon \ Wilson Attorneys At Law in Amherst.

Attorney Reidy explains that Cumberland Farms is seeking to amend their existing license for underground fuel storage at the Florence location on Main Street. Attorney Reidy has brought along Site Engineer Phil Henry from the firm Civil Design Group, LLC and Attorney Dave Berson, also an Associate of Bacon \ Wilson.

The project is located at 53 and 55 Main Street in Florence. Currently there is a 21,000 square foot lot which Cumberland Farms currently exists on. There is about a 4,100 sq. ft. store, two fueling stations, and four fueling positions at the 53 Main Street address. There are three underground storage tanks; the current license is for 21,000 gallons of gasoline storage. The lot at 55 Main Street is about 4,000 square feet with a 1,100 square foot building on it. The proposal is to raze the buildings on both sites, take out the underground storage tanks and place a 3,550 square foot retail convenience store with three filling stations for a total of six fueling positions. The team has been before the Northampton Planning Board and has received site plan and special permit approval. The appeal period has passed for that project. The project is pedestrian friendly with a pergola in the front with a seating area. There is currently a fuel storage license from 1946 allowing for 21,000 gallons of storage. The first underground storage tanks were put in at that site in 1922. The business was called Florence Garage; in 1936 it became Fleming's Garage; in 1955 it became Henry's Welding, Fleming's Electric Appliances and Fleming's TV Repair. In 1972 Cumberland Farms bought the property. The goal is to increase the amount of fuel storage on the site; the current three storage tanks will be replaced with two 20,000 gallon capacity tanks. Each tank will have two separate compartments; an 8,000 gallon compartment and a 12,000 gallon compartment. There will be a total of 32,000 gallons of gasoline and 8,000 gallons of diesel.

Mr. Henry explained that the convenience store will be located where the house is located at 55 Main Street. The front entrance will face the current gas pumps, not the street. The outdoor seating will be located to the front of the new building. The tanks will be filled by a tractor trailer truck that will access the filling location with a left hand turn from Main Street. The tanks will be filled in a remote fill fashion that will drain into the tanks. The tractor trailer will exit through the easterly exit.

Councilor LaBarge asked if the property at 55 Main Street has already been purchased to do the expansion. Attorney Reidy explained that 55 Main Street is commercial use on the first floor. The property is under contract; should everything go through that allows for the project to be completed, then the property will be purchased and the parcels will be combined.

Councilor Dwight asked about back-up storage containment systems. Mr. Henry explained that the tanks are dual wall fiberglass tanks; they have an inner tank and an outer tank. In between the tanks is a brine calcium chloride solution. On top of the tank is a containment sump. In the containment sump is a liquid level sensor. Should a breach occur in the primary tank, the liquid level sensor would alert the leak using a video and audio alarm both in the store and at headquarters in Framingham. If the exterior wall is compromised, the sensor will go off as well. If there is a break in the dispenser lines from the USTs to the dispenser, those walls are also dual wall fiberglass. If there was a breach to the inside wall, that liquid would drain into the outer tube, and back into the UST via gravity. The pumps operate at 10 gallons per minute which is a slow rate. Should there be a spill, even for 6 seconds, it will be a minor spill that would be collected in the grooves on the outside which holds about 11 gallons for each dispenser filled up. If there is an accident where someone comes into the dispensers, and dislodges it, there are valves that shut off the dispensers. There is also a second containment center that holds about 65 gallons of fluid. If gasoline ever got beyond the concrete pad, the drainage system has been designed with storm scepters that have about forty gallons of sump. There would not be any discharge directly into the City's drainage system.

Councilor Dwight asked what would happen if the tanks were dug out and there were signs of corrosion. Mr. Henry noted that it is protocol during razing or rebuilding, the Environmental Engineer is on site to monitor any soil that is exposed. They also have to analyze the soil

**Cumberland**

**Farms Public  
Hearing  
Continued**

before it is taken off site.

Councilor Dwight asked Fire Rescue Chief Dwayne Nichols about their responsibilities during the dig. Chief Nichols explained that when the underground tanks are removed, the Fire Rescue Department conducts a site inspection. If any leakage is suspected, the department would contact the Department of Environmental Protection. The tanks were replaced back in the late nineties and are now about twenty years old. Now is the right time to change the tanks due to their age. The DEP regulates underground tanks and the Fire Rescue Dept. permits the storage of the fuel. For the dispensing site, the plans get reviewed by the State Fire Marshall's Office and are then signed-off by Chief Nichols. The process is quite regulated.

Councilor Murphy noted that when the project is completed, the storage and the dispensing units will be state of the art. It looks like the facility will resemble the Williamsburg facility.

There were no opponents.

**Motion to close  
Public Hearing**

At 8:02 Councilor LaBarge moved to close the public hearing; Councilor Murphy seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Motion Carried**

**Recognitions  
and One-Minute  
Announcements  
by Councilors**

**Recognitions and One-Minute Announcements by Councilors**

Councilor Bidwell advised that on Friday October 14, 2016 there will be an official dedication of the Connecticut River Greenway Park. The event will take place from 4 – 5 p.m. and will feature dragon boat racing and other events. It isn't easy to find an access point to the Connecticut River in Northampton that complies with all regulatory requirements. The Mayor, Senator Rosenberg and Representative Kocot will be in attendance.

Councilor Bidwell announced that the National Priorities Project will be having an annual fall party on Thursday, October 27<sup>th</sup> from 6 – 8 p.m. It will feature a special presentation of the Rabbi and the Reverend with WHMP focused on military spending and trade-off issues. More information is available at [NationalPriorities.org](http://NationalPriorities.org).

Councilor Dwight announced that on Tuesday, November 1<sup>st</sup> the City will be having its annual Veteran's Day Parade. The parade will kick off at Lampron Park near Bridge Street Cemetery at 11 am. The parade will proceed from Bridge Street to Main Street and will end at Pulaski Park. After the parade a speaking program will take place.

Councilor LaBarge thanked the Mayor and the DPW for the re-paving efforts on Park Hill Road.

Councilor LaBarge thanked the Mayor, DPW and Councilor Ryan O'Donnell for working closely with her on helping to make the intersection of Florence Road and Ryan Road to become safe. The placement of two speed bumps is being done. She has been waiting seven years for something to happen. She is hopeful that money can be obtained from the State to reconstruct the intersection to make it safer. The speed bumps are only a beginning; more work needs to be done.

Councilor LaBarge noted that she has been getting a lot of calls from residents who are unhappy about Burts Pit Road. Also, a traffic study needs to be done for Cardinal Way; there are forty-five children that live in the area and the street is being used as a cut off area.

**Communications**

**Communications and Proclamations From the Mayor:**

<u>and Proclamations From the Mayor</u>	Mayor Narkewicz reminded the Council that the Pulaski Day Parade will be Monday, October 10, 2016. The event will begin at King Street and will be making its way to the newly renovated Pulaski Park. The public is invited to attend. The Polish Heritage Committee has been working hard on the parade and celebration. There are five different marching bands planned from area schools.
<u>Resolutions</u>	<u>Resolutions:</u>  <u>None</u>
<u>Presentations</u>	<u>Presentations:</u>  <u>None</u>
<u>Consent Agenda</u>	<u>Consent Agenda</u>
<u>Motion to approve Consent Agenda</u>	A motion was made by Councilor Murphy to approve the consent agenda; Councilor O'Donnell seconded the motion. The motion was approved on voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	<p>The following items were approved as part of the consent agenda:</p> <p>16.173 Petition regarding an application for fuel storage @ Cumberland Farms in Florence</p> <p>16.174 Referral of Appointment to the Community Preservation Commission: Anne Dewitt Brooks to replace Debin Bruce as the Planning Board Rep on the Community Preservation Commission.</p> <p>16.154 Appointments to Committees:</p> <ul style="list-style-type: none"> <li>• <u>Conservation Commission:</u> Lisa Fusco, 130 Cross Path Road, Northampton, term September 2016 - June 2019</li> <li>• <u>Housing Partnership:</u> Richard Abuza, 245 Chestnut St., Florence, term July 2016 - June 2019 (Reappointment); Alison Brauner, 19 Market St., Apt. B, Northampton, term September 2016 - June 2019</li> <li>• <u>Human Rights Commission:</u> Karen Bellavance-Grace, 19 Church St., Northampton, term September 2016 - June 2019; Davina Miller, 33 Summer St., Northampton, term September 2016 - June 2019</li> <li>• <u>Public Shade Tree Commission:</u> Todd Ford, 78 Fern St., Florence, term July 2016 - June 2019 (Reappointment); Marilyn Castriotta, 79 West St., Northampton, term July 2016 - June 2019 (Reappointment)</li> </ul> <p>16.67 Appointments to Committees:</p> <ul style="list-style-type: none"> <li>• <u>Arts Council:</u> Joseph Pesce, 685 Ryan Road, Florence – term October 2016 – June 2019</li> <li>• <u>Board of Assessors:</u> Denny Nolan, 319 Elm Street, Northampton – term October 2016 – June 2019; Margo Welch, 143 Main Street, Northampton – term July 2016 – June 2019 (reappointment)</li> <li>• <u>Planning Board:</u> Euripedes De Oliveira, Associate Member, 9 Washington Place, Northampton – term October 2016 – June 2019</li> </ul> <p>Minutes of September 15, 2016</p>

<u>Consent Agenda</u> <u>Continued</u>	
<u>City Council</u> <u>Recess</u>	The City Council took a short recess at 8:12 p.m. and reconvened at 8:22 p.m.
<u>Recess for</u> <u>Committee on</u> <u>Finance Meeting</u>	At 8:22 p.m. the City Council recessed for the Committee on Finance meeting. The City Council reconvened at 8:45 p.m.
<u>Financial Orders</u>	<u>Financial Orders</u>
<u>16.148 An Order</u> <u>to approve the</u> <u>FY2017</u> <u>Residential</u> <u>Factor &amp; tax levy</u> <u>percentages - 1st</u> <u>Reading</u>	<u>16.148 An Order to approve the FY2017 Residential Factor &amp; tax levy percentages - 1st Reading</u>
<u>Motion to</u> <u>approve 16.148</u> <u>in 1st Reading</u>	Councilor O'Donnell moved to approve the order in 1 <sup>st</sup> reading; Councilor Sciarra seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	<u>See minutes of October 20, 2016 for second reading.</u>
<u>16.168 A</u> <u>Financial Order</u> <u>to authorize</u> <u>payment of prior</u> <u>year bills - DPW -</u> <u>1st Reading</u>	<u>16.168 A Financial Order to authorize payment of prior year bills - DPW - 1st Reading</u>
<u>Motion to</u> <u>approve 16.168</u> <u>in 1st Reading</u>	Councilor O'Donnell moved to approve the order in 1 <sup>st</sup> reading; Councilor LaBarge seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	<u>See minutes of October 20, 2016 for second reading.</u>
<u>16.169 A</u> <u>Financial Order</u> <u>to amend prior</u> <u>authorization for</u> <u>borrowing on a</u> <u>River Road</u> <u>Retaining Wall</u> <u>project -Request</u> <u>2 Readings</u>	<u>16.169 A Financial Order to amend prior authorization for borrowing on a River Road Retaining Wall project -Request 2 Readings</u>
<u>Motion to</u> <u>approve 16.169</u> <u>in 1st Reading</u>	Councilor LaBarge moved to approve the order in 1 <sup>st</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	

16.169 Continued

Motion to  
suspend Council  
Rules to allow  
for 2<sup>nd</sup> Reading

Councilor O'Donnell moved to suspend Council Rules to allow for second reading; Councilor LaBarge seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

Motion to  
approve 16.169  
in 2<sup>nd</sup> Reading

Councilor Murphy moved to approve in 2<sup>nd</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

The following order passed second reading:

Upon the recommendation of the Mayor

O-16.169  
AN ORDER

To amend prior authorization for borrowing on a River Road Retaining  
Wall project

*Ordered, that* The order of the council adopted on June 27, 2013 and approved by the Mayor on July 1, 2013, as amended by the order of the council adopted April 2, 2015 and approved by the Mayor on April 3, 2015, for the engineering and construction related to the stabilization of the River Road Retaining Wall Slope, is hereby further amended to read as follows:

“Ordered that the sum of \$ 2,022,000 is appropriated for the engineering and construction related to the stabilization of the River Road Retaining Wall Slope; that to meet such appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$2,022,000 under M.G.L. c. 44, §7(7), or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; that the Mayor is authorized to contract for and expend any federal or state aid available for this project, provided that the amount of the authorized borrowing shall be reduced by the amount of such aid received prior to the issuance of bonds or notes under this order and shall be further reduced by any other sums received from any other sources for the project, including contributions from the Town of Williamsburg; that any premium received by the City upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this order in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount; and that the appropriate officials of the City are authorized to take any other action necessary to carry out the purposes of this Order.

Enrolled

Rules suspended, passed two readings and enrolled.

16.170 A Financial Order to accept a donation from the Florence Mercantile totaling \$2,350 for the completion of the Trinity Park Fountain Project - Request 2 Readings

Motion to approve 16.170 in 1<sup>st</sup> Reading

Councilor LaBarge moved to approve the order in 1<sup>st</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

Motion to suspend Council Rules to allow for 2<sup>nd</sup> Reading

Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

Motion to approve 16.170 in 2<sup>nd</sup> Reading

Councilor Murphy moved to approve in 2<sup>nd</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

The following order passed second reading:

Upon recommendation of the Mayor

16.170  
An Order  
To accept a donation from the Florence Mercantile totaling \$2,350  
for the completion of the Trinity Park Fountain Project

*Ordered, that*

The Northampton City Council gratefully accepts donations from the Florence Mercantile, the business group of the Florence Civic and Business Association, totaling \$2,350 to the Trinity Park Fountain Project, and in accordance with Massachusetts General Law Chapter 44, Section 53A approves using the gifted funds (Fund 2546 – DPW Fountain Account) to complete construction of a fountain at Trinity Park in Florence.

Enrolled

Rules suspended, passed two readings and enrolled.

**16.176 A Financial Order to authorize budgetary transfers to be made for wage adjustments in the Fire Department - Request 2 Readings**

**Motion to approve 16.176 in 1<sup>st</sup> Reading**

**16.176 A Financial Order to authorize budgetary transfers to be made for wage adjustments in the Fire Department - Request 2 Readings**

Councilor LaBarge moved to approve the order in 1<sup>st</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Motion Carried**

**Motion to suspend Council Rules to allow for 2<sup>nd</sup> Reading**

Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Motion Carried**

**Motion to approve 16.176 in 2<sup>nd</sup> Reading**

Councilor Murphy moved to approve in 2<sup>nd</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

**Motion Carried**

**The following order passed second reading:**

**Upon recommendation of the Mayor**

**O-16.176**

**An Order**

**To authorize budgetary transfers to be made for wage adjustments in the Fire Department**

*Ordered, that*

the following FY2017 budgetary transfers be and hereby are made:

Department		Description	Org	Object	Transfer From:	Transfer To:
Fire Department	PS	Permanent Salaries	12201	511000		131,041.00
Reserve for Personnel	PS	Wage Adjustments	19491	519700	(131,041)	
TOTAL:					(131,041)	131,041

**Enrolled**

**Rules suspended, passed two readings and enrolled.**

<u>16.157 A Financial Order to authorize payment of a previous year bill to Comcast in the amount of \$154.83 - 2nd Reading</u>	<u>16.157 A Financial Order to authorize payment of a previous year bill to Comcast in the amount of \$154.83 - 2nd Reading</u>
<u>Motion to approve 16.157 in 2nd Reading</u>	Councilor LaBarge moved to approve in 2 <sup>nd</sup> reading; Councilor O'Donnell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	<u>The following order passed second reading:</u>  <u>Upon the recommendation of the Mayor</u>  <div style="text-align: center;"><u>16.157</u> <u>AN ORDER</u> <u>to authorize payment of a previous year bill to Comcast in the amount of \$154.83</u></div> BE IT ORDERED  that the Council authorize payment of a prior fiscal year bill (FY2016) related to the DPW for Comcast in the amount of \$154.83.
<u>Enrolled</u>	<u>Rules suspended, passed two readings and enrolled.</u>

<u>Orders</u>	<u>Orders</u>
<u>16.171 A Warrant for an election to be held November 8, 2016 - Request 2 Readings</u>	<u>16.171 A Warrant for an election to be held November 8, 2016 - Request 2 Readings</u>
<u>Motion to approve 16.171 in 1st Reading</u>	Councilor LaBarge moved to approve the order in 1 <sup>st</sup> reading; Councilor Sciarra seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	
<u>Motion to suspend Council Rules to allow for 2nd Reading</u>	Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	
<u>Motion to approve 16.171 in 2nd Reading</u>	Councilor Murphy moved to approve in 2 <sup>nd</sup> reading; Councilor Bidwell seconded the motion. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.
<u>Motion Carried</u>	<u>The following order passed second reading:</u>

16.171 Continued

Upon the recommendation of City Clerk, Wendy Mazza

that meetings of the members of the qualified voters of the City of Northampton will be held on Tuesday, November 8, 2016, in the several polling places designated for the purpose by the City Council, as follows:

WARD 1, Precinct A - In Jackson Street School Auditorium  
WARD 1, Precinct B - In Jackson Street School Auditorium  
WARD 2, Precinct A - In Smith Vocational-Agricultural High School  
WARD 2, Precinct B - In Smith Vocational-Agricultural High School  
WARD 3, Precinct A - In the Senior Center, Great Room, 67 Conz Street  
WARD 3, Precinct B - In the Senior Center, Great Room, 67 Conz Street  
WARD 4, Precinct A - In the Senior Center, Great Room, 67 Conz Street  
WARD 4, Precinct B - In the Senior Center, Great Room, 67 Conz Street  
WARD 5, Precinct A - In Florence Civic and Business Building, 90 Park Street  
WARD 5, Precinct B - In Smith Vocational-Agricultural High School  
WARD 6, Precinct A - In Robert K. Finn Ryan Road School  
WARD 6, Precinct B - In Robert K. Finn Ryan Road School  
WARD 7, Precinct A - In John F. Kennedy Middle School, Community Room  
WARD 7, Precinct B - In Leeds School Gymnasium, Lower Level

The polls will be opened at seven o'clock in the forenoon and closed at eight o'clock in the evening of the said day, and all such voters will in the several wards and precincts in which they are individually entitled to vote between said hours give in their votes for Electors of President and Vice President, for Representative in Congress for the Second District, for Councillor from the Eighth District, for Senator in General Court for the Hampshire, Franklin & Worcester District, for Representative in General Court for the First Hampshire District, and for Sheriff from Hampshire County.

They will also give in their votes, Yes or No on the following questions:

Question 1-Expanding Slot-Machine Gaming

Question 2-Charter School Expansion

Question 3- Conditions for Farm Animals

Question 4-Legalization, Regulation, and Taxation of Marijuana

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## 1

## QUESTION 1: Law Proposed by Initiative Petition

## Expanded Slot-Machine Gaming

Do you approve of a law summarized below on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2017?

**SUMMARY**  
As required by law, summaries are written by the State Attorney General.

This proposed law would allow the state Gaming Commission to issue one additional category 2 license, which would permit operation of a gaming establishment with no table games and not more than 1,250 slot machines.

The proposed law would authorize the Commission to request applications for the additional license to be granted to a gaming establishment located on property that is (i) at

least four acres in size; (ii) adjacent to and within 1,500 feet of a race track, including the track's additional facilities, such as the track, grounds, paddocks, barns, auditorium, amphitheatre, and bleachers; (iii) where a horse racing meeting may physically be held; (iv) where a horse racing meeting shall have been hosted; and (v) not separated from the race track by a highway or railway.

**WHAT YOUR VOTE WILL DO**  
As required by law, the statements describing the effect of a "yes" or "no" vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.

A **YES VOTE** would permit the state Gaming Commission to license one additional slot-machine gaming establishment at a location that meets certain conditions specified in the law.

A **NO VOTE** would make no change in current laws regarding gaming.

**STATEMENT OF FISCAL CONSEQUENCES**  
As required by law, statements of fiscal consequences are written by the Executive Office of Administration and Finance.

The fiscal consequences of this proposed measure for state and municipal government finances could range from 0 dollars to an unknown positive amount. Under the Expanded Gaming Act, the Massachusetts Gaming Commission has the discretion to determine whether a gaming license should be issued and when that determination would be made. If the

Gaming Commission did award the proposed license, a new analysis of the casino market would be needed to determine the amount of revenue from this license, based on proposed size and operations, and the potential impact of competition from other gaming establishments in Massachusetts and surrounding areas.

**ARGUMENTS**  
As provided by law, the 100-word arguments are written by proponents and opponents of each question and reflect their opinions. The Commonwealth of Massachusetts does not endorse these arguments, and does not certify the truth or accuracy of any statements made by these opponents. The names of the individuals and organizations who wrote each argument, and any written comments by others about each argument, are on file in the Office of the Secretary of the Commonwealth.

**IN FAVOR:** Voting YES allows one additional slots parlor in Massachusetts, providing millions of dollars to Massachusetts communities and creating thousands of jobs. In 2013 alone, Massachusetts residents who played at neighboring state gaming facilities gave those states over \$240 Million that could have stayed in Massachusetts.

Under the Gaming Law, nearly half the revenue collected benefits all Massachusetts residents. Over the past year, the existing slots parlor contributed over \$60 million for Massachusetts communities, plus additional funds paid to the host-community. (The Gaming Law ensures that a slots parlor will only be licensed in a community that votes for it.)

About \$1 of every \$5 collected goes to our State's horse racing industry, sustaining jobs at racetracks and breeding farms. A second slots parlor, together with the existing parlor,

**AGAINST:** Legalized casino gambling in the Commonwealth is too new and unproven to expand at this time!

- Only one slot parlor has opened in Massachusetts, and it is significantly underperforming.
- Five casinos are expected to open in Massachusetts by 2019. *The Wall Street Journal* warns that New England already has more casinos than the market wants or needs.
- This ballot question was written by one casino developer, for one purpose: his own financial gain. It disrupts the process and limits established by the Legislature to protect communities and existing businesses.
- Proponents of the 'Act Relative to Gaming' have traveled across the globe to exploit the Commonwealth and send a message to other casino developers — they can come to

4

## QUESTION 1: Law Proposed by Initiative Petition

**ARGUMENTS**  
(continued)

will assure that the long tradition of horse racing in Massachusetts survives while bringing thousands of new jobs to Massachusetts.

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Massachusetts and do the same.

Vote "No" to postpone the question of gambling expansion until a review of the costs and benefits of existing Massachusetts gaming establishments is completed.

Authored by:  
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Chair, Committee for Responsible and Sustainable Economic Development  
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MaCasinos.net

**FULL TEXT OF QUESTION**

Be it enacted by the People, and by their authority:

SECTION 1. Subsection (a) of Section 8 of Chapter 23K of the General Laws, as appearing in the 2012 Official Edition is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

The commission shall issue a request for applications for category 1 and category 2 licenses.

SECTION 2. Section 20 of said Chapter 23K of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(g) Notwithstanding any general or special law, rule, or regulation to the contrary, the commission may issue 1 additional category 2 license; provided, however, that

the additional category 2 license shall only be issued to applicants who are qualified under the criteria set forth in this chapter as determined by the commission and that the additional category 2 license meet the following additional qualification:

(1) The proposed location of the gaming establishment shall be at least 4 acres large, and shall be adjacent to, and within 1500 feet of, a race track, including the track, grounds, paddocks, barns, auditorium, amphitheatre and/or bleachers, if any, where a horse racing meeting may physically be held, which race track shall have hosted a horse racing meeting, provided that said location is not separated from said race track by a highway or railway.

# 2

## QUESTION 2: Law Proposed by Initiative Petition

### Charter School Expansion

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2017?

<p><b>SUMMARY</b> ▶ As required by law, summaries are written by the State Attorney General.</p>	<p>This proposed law would allow the state Board of Elementary and Secondary Education to approve up to 12 new charter schools or enrollment expansions in existing charter schools each year. Approvals under this law could expand statewide charter school enrollment by up to 1% of the total statewide public school enrollment each year. New charters and enrollment expansions approved under this law would be exempt from existing limits on the number of charter schools, the number of students enrolled in them, and the amount of local school districts' spending allocated to them.</p> <p>If the Board received more than 12 applications in a single year from qualified applicants, then the proposed law would require it to give priority to proposed charter schools or enrollment</p>	<p>expansions in districts where student performance on statewide assessments is in the bottom 25% of all districts in the previous two years and where demonstrated parent demand for additional public school options is greatest.</p> <p>New charter schools and enrollment expansions approved under this proposed law would be subject to the same approval standards as other charter schools, and to recruitment, retention, and multilingual outreach requirements that currently apply to some charter schools. Schools authorized under this law would be subject to annual performance reviews according to standards established by the Board.</p> <p>The proposed law would take effect on January 1, 2017.</p>
<p><b>WHAT YOUR VOTE WILL DO</b> ▶ As required by law, the statements describing the effect of a "yes" or "no" vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.</p>	<p><b>A YES VOTE</b> would allow for up to 12 approvals each year of either new charter schools or expanded enrollments in existing charter schools, but not to exceed 1% of the statewide public school enrollment.</p>	<p><b>A NO VOTE</b> would make no change in current laws relative to charter schools.</p>
<p><b>STATEMENT OF FISCAL CONSEQUENCES</b> ▶ As required by law, statements of fiscal consequences are written by the Executive Office of Administration and Finance.</p>	<p>This proposed measure would make no changes to the current funding formula, which mandates that state and local per-pupil funding follow students who enroll in public charter schools.</p>	<p>School districts that experience annual increases in payments to public charter schools receive transitional state education aid.</p>
<p><b>ARGUMENTS</b> ▶ As provided by law, the 150-word arguments are written by proponents and opponents of each question, and reflect their opinions. The Commonwealth of Massachusetts does not endorse these arguments, and does not certify the truth or accuracy of any statement made in this argument. The action of the individuals and organizations who wrote each argument, and any related comments by others about each argument, are on file in the Office of the Secretary of the Commonwealth.</p>	<p><b>IN FAVOR:</b> A YES vote on Question 2 gives parents the right to choose the best public schools for their children.</p> <p>Charter schools are PUBLIC schools open to all children. They offer longer school days and more individual attention, and have a proven record of closing the achievement gap for kids trapped in failing school districts.</p> <p>Today, almost 33,000 children are stuck on waiting lists for public charter schools because of the legislature's arbitrary cap on enrollment. Voting YES would give more children the opportunity to attend these great public schools -- especially in the state's lowest-performing school districts.</p>	<p><b>AGAINST:</b> Every time a new charter school opens or expands, it takes funding away from the public schools in that district. This year alone, charter schools will take more than \$400 million from already-underfunded Massachusetts public schools. And charter schools are not accountable to the local taxpayers who fund them.</p> <p>Under this proposal, the number of charter schools in Massachusetts would nearly triple in just 10 years, costing local public school districts more than \$1 billion a year.</p> <p>If some public schools are falling short, we should fix them, not take money away and give it to privately-run charters. We need to support schools that serve all children. That means</p>

QUESTION 2: Law Proposed by Initiative Petition

**ARGUMENTS** ▶ Voting YES does not harm local school districts. Cities and towns with new public charter schools will receive MORE state education aid. If Question 2 passes, Charter growth would happen gradually; new public charter schools must be approved by the State Board of Education and are subject to rigorous and frequent performance reviews.

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Investing in areas such as STEM (science, technology, engineering, and math), arts and music, and Pre-K, not diverting even more resources to charters, which educate just four percent of students. Save Our Public Schools. Vote NO on 2.

Authored by:  
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FULL TEXT OF QUESTION

Be it enacted by the People, and by their authority, as follows:

SECTION 1.

Subsection (f) of section 89 of chapter 71 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after paragraph (4) the following new paragraph:—

(5) Notwithstanding the provisions of this subsection (f) relative to the number of charter schools allowed to operate in the commonwealth or in any district, the board may approve up to 12 additional commonwealth charters, commonwealth charter amendments to increase authorized enrollment, or a combination thereof per year; provided that the total enrollment authorized by all such approvals in a single fiscal year shall not exceed 1% of the total statewide public school enrollment for such year as determined by the board; provided further, that in the event that the number of qualified applicants in any year exceeds 12, the board shall give priority among such qualified applicants to those seeking to establish or expand enrollment in commonwealth charter schools in districts where overall student performance on the statewide assessment system approved by the board is in the bottom 25% of all districts in the two years preceding the charter application and where the demonstrated parent demand for additional public school options is greatest; provided

further that the board shall apply to all such applicants review and approval standards as rigorous as those applied to all other commonwealth charter applicants; provided further that the recruitment and retention and multilingual outreach provisions of paragraph (3) shall apply to any commonwealth charter school authorized under this paragraph; and provided further that any new commonwealth charter schools authorized by this paragraph shall be subject to annual performance reviews according to standards established by the board.

Nothing in this paragraph shall affect the issuance of commonwealth charters under paragraph (3). The percentages of net school spending set forth in paragraphs (2) and (3) shall not apply to or otherwise operate to limit the board's authority to approve commonwealth charters or commonwealth charter amendments under this paragraph; provided, however, that such percentages shall continue to apply to commonwealth charters issued otherwise than under this paragraph. Except as provided in this paragraph, all otherwise applicable provisions of this section shall apply to commonwealth charters or amendments approved under this paragraph.

SECTION 2.

This act shall become effective January 1, 2017, and shall apply to commonwealth charter and commonwealth charter amendment applications pending as of that date.

# 3

## QUESTION 3: Law Proposed by Initiative Petition

### Conditions for Farm Animals

Do you approve of a law described below on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2017?

#### SUMMARY

As required by law, summary of the law as proposed by the State Attorney General.

This proposed law would prohibit any farm owner or operator from knowingly confining any breeding pig, calf raised for veal, or egg-laying hen in a way that prevents the animal from lying down, standing up, fully extending its limbs, or turning around freely. The proposed law would also prohibit any business owner or operator in Massachusetts from selling whole eggs intended for human consumption or any uncooked cut of veal or pork if the business owner or operator knows or should know that the hen, breeding pig, or veal calf that produced those products was confined in a manner prohibited by the proposed law. The proposed law would exempt sales of food products that combine veal or pork with other products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food items.

The proposed law's confinement prohibitions would not apply during transportation; state and county fair exhibitions; 4-H programs; slaughter in compliance with applicable laws and regulations; medical research; veterinary exams,

testing, treatment and operation if performed under the direct supervision of a licensed veterinarian; five days prior to a pregnant pig's expected date of giving birth; any day that pig is nursing piglets; and for temporary periods for animal husbandry purposes not to exceed six hours in any twenty-four hour period.

The proposed law would create a civil penalty of up to \$1,000 for each violation and would give the Attorney General the exclusive authority to enforce the law, and to issue regulations to implement it. As a defense to enforcement proceedings, the proposed law would allow a business owner or operator to rely in good faith upon a written certification or guarantee of compliance by a supplier.

The proposed law would be in addition to any other animal welfare laws and would not prohibit stricter local laws.

The proposed law would take effect on January 1, 2022. The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

#### WHAT YOUR VOTE WILL DO

As required by law, the statements describing the effect of a "yes" or "no" vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.

A **YES VOTE** would prohibit any confinement of pigs, calves, and hens that prevents them from lying down, standing up, fully extending their limbs, or turning around freely.

A **NO VOTE** would make no change in current laws relative to the keeping of farm animals.

#### STATEMENT OF FISCAL CONSEQUENCES

As required by law, statements of fiscal consequences are written by the Executive Office of Administration and Finance.

Because the law would not take effect until January 1, 2022, the fiscal consequences of

this proposed measure for state and municipal government finances are unknown.

**QUESTION 3: Law Proposed by Initiative Petition**

**ARGUMENTS IN FAVOR:** A YES vote prevents cruel treatment of animals in Massachusetts by ending the practice of cramming farm animals into cages so small they can't turn around or stretch their limbs, and will remove inhumane and unsafe products from the Massachusetts marketplace.

Endorsed by the MSPCA, Animal Rescue League of Boston, The Humane Society of the United States, and 400 Massachusetts veterinarians because no animal should be immobilized in a cramped cage.

Endorsed by the Center for Food Safety and Consumer Federation of America because cage confinement increases food safety risks, and a YES vote protects Massachusetts consumers.

Endorsed by Massachusetts family farmers and the United Farm Workers because proper treatment of animals is better for farmers. From McDonald's to Walmart, retailers are switching to cage-free eggs—the right thing to do at the right cost.

Vote YES. Protect consumers. Prevent animal cruelty.

Authored by:  
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**AGAINST:** A NO vote is necessary to protect Massachusetts consumers' right to choose from the variety of healthy foods available for purchase today.

Question 3 proposes to ban the sale of any veal, pork, and eggs from any state unless produced according to the wishes of the ballot promoters. A recent study undertaken at Cornell University estimates the cost to consumers—just on eggs—would be \$70 a year for a family of five.

This study also notes that an increase in food prices "disproportionately harms lower income households" and can impact their ability to maintain a "healthy and adequate diet."

Let the free marketplace respond to consumer concerns. The veal industry plans to be completely phased out of veal crates by the end of 2017. 175 food suppliers have already pledged to switch to cage free eggs. Others will follow.

This proposed government mandate is neither necessary nor wise.

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**FULL TEXT OF QUESTION**

Be it enacted by the People, and by their authority:  
Prevention of Farm Animal Cruelty Act

**SECTION 1.** The purpose of this Act is to prevent animal cruelty by phasing out extreme methods of farm animal confinement, which also threaten the health and safety of Massachusetts consumers, increase the risk of foodborne illness, and have negative fiscal impacts on the Commonwealth of Massachusetts.

**SECTION 2.** Notwithstanding any general or special law to the contrary, it shall be unlawful for a farm owner or operator within the Commonwealth of Massachusetts to knowingly cause any covered animal to be confined in a cruel manner.

**SECTION 3.** Notwithstanding any general or special law to the contrary, it shall be unlawful for a business owner or operator to knowingly engage in the sale within the Commonwealth of Massachusetts of any:

(A) Shell egg that the business owner or operator knows or should know is the product of a covered animal

that was confined in a cruel manner.

(B) Whole veal meat that the business owner or operator knows or should know is the meat of a covered animal that was confined in a cruel manner.

(C) Whole pork meat that the business owner or operator knows or should know is the meat of a covered animal that was confined in a cruel manner, or is the meat of the immediate offspring of a covered animal that was confined in a cruel manner.

**SECTION 4.** For the purposes of this Act, a covered animal shall not be deemed to be "confined in a cruel manner" during:

(A) Transportation.

(B) State or county fair exhibitions, 4-H programs, and similar exhibitions.

(C) Slaughter in accordance with any applicable laws, rules, and regulations.

(D) Medical research.

**QUESTION 3: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**

(E) Examination, testing, individual treatment or operation for veterinary purposes, but only if performed by or under the direct supervision of a licensed veterinarian.

(F) The five (5) day period prior to a breeding pig's expected date of giving birth, and any day that the breeding pig is nursing piglets.

(G) Temporary periods for animal husbandry purposes for no more than six (6) hours in any twenty-four (24) hour period.

**SECTION 5.** For purposes of this Act, the following terms shall have the following meanings:

(A) "Breeding pig" means any female pig of the porcine species kept for the purpose of commercial breeding.

(B) "Business owner or operator" means any person who owns or controls the operations of a business.

(C) "Calf raised for veal" means any calf of the bovine species kept for the purpose of commercial production of veal meat.

(D) "Covered animal" means any breeding pig, calf raised for veal, or egg-laying hen that is kept on a farm.

(E) "Confined in a cruel manner" means confined so as to prevent a covered animal from lying down, standing up, fully extending the animal's limbs, or turning around freely.

(F) "Egg-laying hen" means any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of commercial egg production.

(G) "Enclosure" means any cage, crate, or other structure used to confine a covered animal or animals. "Enclosure" includes what is commonly described as a "gestation crate" or "stall" for pigs during pregnancy, a "veal crate" for calves raised for veal, and a "battery cage, enriched cage, or colony cage" for egg-laying hens.

(H) "Farm" means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food; and does not include live animal markets or establishments at which inspection is provided under the Federal Meat Inspection Act.

(I) "Farm owner or operator" means any person who owns or controls the operations of a farm.

(J) "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure. In the case of egg-laying hens, fully extending the animal's limbs means fully spreading both wings without touching the side of an enclosure or other egg-laying hens and having access to at least 1.5 square feet

of usable floor space per hen.

(K) "Person" means any individual, firm, partnership, joint venture, limited liability corporation, estate, trust, receiver, syndicate, association, or other legal entity.

(L) "Pork meat" means meat, as defined in 105 CMR 531.012 as of June 1, 2015, of a pig of the porcine species, intended for use as human food.

(M) "Sale" means a commercial sale by a business that sells any item covered by Section 3, but does not include any sale undertaken at an establishment at which inspection is provided under the Federal Meat Inspection Act. For purposes of this section, a sale shall be deemed to occur at the location where the buyer takes physical possession of an item covered by Section 3.

(N) "Shell egg" means a whole egg of an egg-laying hen in its shell form, intended for use as human food.

(O) "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure or another animal.

(P) "Uncooked" means requiring cooking prior to human consumption.

(Q) "Usable floor space" means the total square footage of floor space provided to each hen, as calculated by dividing the total square footage of floor space provided to hens in an enclosure (including both ground space and elevated flat platforms) by the number of hens in that enclosure.

(R) "Veal meat" means meat, as defined in 105 CMR 531.012 as of June 1, 2015, of a calf raised for veal, intended for use as human food.

(S) "Whole pork meat" means any uncooked cut of pork (including bacon, ham, chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of pork meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives. Whole pork meat does not include combination food products (including soups, sandwiches, pizzas, hot dogs, or similar processed or prepared food products) that are comprised of more than pork meat, seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives.

(T) "Whole veal meat" means any uncooked cut of veal (including chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of veal meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives. Whole veal meat does not include combination food products

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**QUESTION 3: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**

(including soups, sandwiches, pizzas, hot dogs, or similar processed or prepared food products) that are comprised of more than veal meat, seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives.

**SECTION 6.** The Attorney General shall have exclusive authority to enforce the provisions of this Act. Each violation of this Act shall be punished by a civil fine not to exceed one thousand dollars (\$1,000). The Attorney General may also seek injunctive relief to prevent further violations of this Act.

**SECTION 7.** It shall be a defense to any action to enforce this Act that a business owner or operator relied in good faith upon a written certification or guarantee by the supplier that the shell egg, whole pork meat, or whole veal meat at issue was not derived from a covered animal that was confined in a cruel manner, or from the immediate offspring of a female pig that was confined in a cruel manner.

**SECTION 8.** The provisions of this Act are in addition to, and not in lieu of, any other laws protecting animal welfare. This Act is not intended, and should not be construed to limit any other state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations that are more stringent than this section.

**SECTION 9.** The provisions of this Act are severable and if any clause, sentence, paragraph or section of this Act, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid.

**SECTION 10.** The Attorney General shall promulgate rules and regulations for the implementation of this Act on or before January 1, 2020.

**SECTION 11.** Sections 2-7 of this Act shall take effect on January 1, 2022.

# 4

## QUESTION 4: Law Proposed by Initiative Petition

### Legalization, Regulation, and Taxation of Marijuana

To your approval of a law as amended below on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2017

#### SUMMARY

As required by law, summaries are written by the State Attorney General.

The proposed law would permit the possession, use, distribution, and cultivation of marijuana in limited amounts by persons age 21 and older and would remove criminal penalties for such activities. It would provide for the regulation of commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of these items.

The proposed law would authorize persons at least 21 years old to possess up to one ounce of marijuana outside of their residences; possess up to ten ounces of marijuana inside their residences; grow up to six marijuana plants in their residences; give one ounce or less of marijuana to a person at least 21 years old without payment; possess, produce or transfer hemp; or make or transfer items related to marijuana use, storage, cultivation, or processing.

The measure would create a Cannabis Control Commission of three members appointed by the state Treasurer which would generally administer the law governing marijuana use and distribution, promulgate regulations, and be responsible for the licensing of marijuana commercial establishments. The proposed law would also create a Cannabis Advisory Board of fifteen members appointed by the Governor. The Cannabis Control Commission would adopt regulations governing licensing qualifications; security; record keeping; health and safety standards; packaging and labeling; testing; advertising and displays; required inspections; and such other matters as the Commission considers appropriate. The records of the Commission would be public records.

The proposed law would authorize cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana businesses and to limit the number of marijuana

establishments in their communities. A city or town could hold a local vote to determine whether to permit the selling of marijuana and marijuana products for consumption on the premises at commercial establishments.

The proceeds of retail sales of marijuana and marijuana products would be subject to the state sales tax and an additional excise tax of 3.75%. A city or town could impose a separate tax of up to 2%. Revenue received from the additional state excise tax or from license application fees and civil penalties for violations of this law would be deposited in a Marijuana Regulation Fund and would be used subject to appropriation for administration of the proposed law.

Marijuana-related activities authorized under this proposed law could not be a basis for adverse orders in child welfare cases absent clear and convincing evidence that such activities had created an unreasonable danger to the safety of a minor child.

The proposed law would not affect existing law regarding medical marijuana treatment centers or the operation of motor vehicles while under the influence. It would permit property owners to prohibit the use, sale, or production of marijuana on their premises (with an exception that landlords cannot prohibit consumption by tenants of marijuana by means other than by smoking); and would permit employers to prohibit the consumption of marijuana by employees in the workplace. State and local governments could continue to restrict uses in public buildings or at or near schools. Supplying marijuana to persons under age 21 would be unlawful.

The proposed law would take effect on December 15, 2016.

#### WHAT YOUR VOTE WILL DO

As required by law, the statements describing the effect of a "yes" or "no" vote are written jointly by the State Attorney General and the Secretary of the Commonwealth.

A YES VOTE would allow persons 21 and older to possess, use, and transfer marijuana and products containing marijuana concentrate (including edible products) and to cultivate marijuana, all in limited amounts, and would provide for the regulation and taxation of commercial sale of marijuana and marijuana products.

A NO VOTE would make no change in current laws relative to marijuana.

**QUESTION 4: Law Proposed by Initiative Petition****STATEMENT OF FISCAL CONSEQUENCES**

As required by law, the statement of fiscal consequences is written by the Executive Office of Administration and Finance.

The fiscal consequences of this proposed measure may affect both projected state and municipal revenues and expenditures, but these consequences are difficult to project due to the lack of reliable data. A March 2016 report from the Special Senate Committee on Marijuana

concluded as follows: "Tax revenues and fees that would be generated from legal sales may fall short of even covering the full public and social costs (including regulation, enforcement, public health and safety, and substance abuse treatment)."

**ARGUMENTS**

As provided by law, the following arguments are written by proponents and opponents of each question, and reflect the position of the Commonwealth of Massachusetts. The statement does not endorse these arguments, and does not certify the truth or accuracy of any statement made in these arguments. The names of the individuals and organizations who wrote each argument, and signatures provided by others about each argument, are on file in the Office of the Secretary of the Commonwealth.

**IN FAVOR:** Law enforcement veterans support this initiative because it replaces the current unregulated marijuana market, controlled by drug dealers, with a tightly regulated system controlled by state and local authorities. Passing this measure will allow local law enforcement to shift resources and focus to serious and violent crimes.

The initiative includes strict regulations for business licensing, product testing, labeling and packaging, providing many more consumer safeguards than exist now. Marketing to minors is strictly prohibited, as is public use and driving under the influence.

Local cities and towns can limit or ban marijuana businesses, and will govern operating hours, locations, and signage.

Taxing marijuana will generate an estimated \$100 million in annual revenue for state and local governments.

Regulation and taxation is working in Colorado, Washington, Alaska and Oregon, generating millions of dollars for education, infrastructure and more. Massachusetts can improve on the regulatory standards already in place and working elsewhere.

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**AGAINST:** Vote "NO" on creating a billion-dollar commercial marijuana industry that, just like Big Tobacco, would make millions on the backs of our communities, compromise health and safety, and harm kids.

Vote "NO" because this measure:

- Allows the sale and marketing of highly-potent marijuana edibles like candy, cookies, gummy bears, and soda that are attractive to young people and can lead to accidental overdose by kids and pets.
- Allows people to "home grow" thousands of dollars' worth of marijuana, even if neighbors object.
- Severely restricts the ability of cities and towns to control the number of marijuana retailers entering communities and allows pot shops to locate near preschools and playgrounds.
- Ignores the deadly opioid epidemic and the impact legalized pot will have on overall drug use.

This legalization scheme would force Massachusetts into the commercial marijuana industry when communities across Colorado, the first state to legalize, are trying to get out.

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QUESTION 4: Law Proposed by Initiative Petition

FULL TEXT OF QUESTION

Be it enacted by the People, and by their authority, as follows:

THE REGULATION AND TAXATION OF MARIJUANA ACT

SECTION 1. The purpose of this Act is to control the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol and to make marijuana legal for adults 21 years of age or older. Its intent is to remove the production and distribution of marijuana from the illicit market and to prevent the sale of marijuana to persons under 21 years of age by providing for a regulated and taxed distribution system. To the fullest extent possible, its terms are to be interpreted in accordance with the purpose and intent set forth in this section.

SECTION 2. This act may be known as "The Regulation and Taxation of Marijuana Act."

SECTION 3. Chapter 10 of the General Laws is hereby amended by inserting after section 75 the following sections:

Section 76. Cannabis Control Commission; members; appointment; terms; chairman; secretary

(a) There shall be a commission known as the cannabis control commission to have general supervision and sole regulatory authority over the conduct of the business of marijuana establishments as defined in chapter 94G of the General Laws. The commission shall consist of 1 commissioner and 2 associate commissioners who shall be appointed by the treasurer. Not more than 2 members of the commission shall be of the same political party. The commissioner shall serve a term co-terminous with the treasurer. The associate commissioners shall serve a term of 4 years. Any vacancy occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

(b) The treasurer shall appoint commissioners based on their experience or expertise in public health, law enforcement, social justice, the regulation and business of consumer commodities and the production and distribution of marijuana and marijuana products.

(c) The commissioner shall serve as chair and shall preside over all official activities of the commission.

(d) The treasurer may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard.

(e) Two members shall constitute a quorum for

conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission.

(f) The commission may expend for such investigators and clerical and other assistants as may be necessary for the performance of its duties. The commissioner may appoint a chief investigator and other investigators, who shall be exempt from chapter 31 of the General Laws, to enforce or cause to be enforced the penalties provided by law against a marijuana establishment that violates chapter 94G of the General Laws and shall make all necessary and appropriate investigations for that enforcement.

(g) All records of the commission shall be considered public records within the meaning of chapter 66 of the General Laws.

Section 77. Cannabis Advisory Board

(a) There shall be a cannabis advisory board to study and make recommendations on the regulation of marijuana and marijuana products. The board shall consist of 16 members appointed by the governor and shall consist of: 1 expert in marijuana cultivation, 1 expert in marijuana retailing, 1 expert in marijuana product manufacturing, 1 expert in marijuana testing, 1 board member or officer of a medical marijuana treatment center, 1 registered medical marijuana patient, 1 individual who represents marijuana retail consumers, 2 experts in public health, 2 experts in law enforcement, 2 experts in social welfare or social justice, and 2 attorneys with experience providing legal services to marijuana businesses, marijuana consumers or medical marijuana patients in the commonwealth. Members of the board shall serve terms of 2 years. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. Members of the board shall not be state employees for purposes of chapter 268A of the General Laws by virtue of their service on the advisory board. The board shall meet at the discretion of the commission. A majority of the members of the board present and voting shall constitute a quorum.

(b) The cannabis advisory board shall:

(1) advise the commission on marijuana cultivation, processing, manufacture, transport, distribution, testing and sale;

(2) consider all matters submitted to it by the commission;

(3) on its own initiative, recommend to the commission guidelines, rules and regulations and any changes to guidelines, rules and regulations that the board

**QUESTION 4: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**

considers important or necessary; and

(4) advise on the preparation of regulations under chapters 64N and 94G.

(c) All records of the cannabis advisory board shall be public records under chapter 66 of the General Laws.

**SECTION 4.** The General Laws are hereby amended by inserting after chapter 64M the following chapter:

**CHAPTER 64N.****MARIJUANA TAX.**

**Section 1. Definitions.** As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Commissioner", the commissioner of revenue.

(b) "Marijuana," "Marijuana establishment," "Marijuana product" and "Marijuana retailer", as defined in chapter 94G of the General Laws.

**Section 2. State excise imposition; rate; payment.** An excise tax is hereby imposed upon the sale of marijuana or marijuana products by a marijuana retailer to anyone other than a marijuana establishment at a rate of 3.75 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The excise tax shall be levied in addition to state tax imposed upon the sale of property or services as provided in section 2 of chapter 64H of the General Laws and shall be paid by a marijuana retailer to the commissioner at the time provided for filing the return required by section 16 of chapter 62C of the General Laws.

**Section 3. Local tax option.** Any city or town may impose a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town to anyone other than a marijuana establishment at a rate not greater than 2 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. A marijuana retailer shall pay a local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

All sums received by the commissioner under this section shall not be considered received on account of the commonwealth and shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the sale or transfer of marijuana and marijuana products in the city or town.

**Section 4. Exemptions.** This chapter shall not apply to the sale of marijuana or marijuana products by a medical marijuana treatment center or a registered personal caregiver to a qualifying patient or personal caregiver pursuant to chapter 369 of the acts of 2012, nor to any unlawful sale subject to taxation pursuant to chapter 64K of the General Laws.

**Section 5. Application of tax revenue.** The commissioner shall deposit revenue collected pursuant to this chapter, other than revenue collected pursuant to section 2 of chapter 64H of the General Laws, in the Marijuana Regulation Fund established by chapter 94G of the General Laws and it shall be subject to appropriation.

**SECTION 5.** The General Laws are hereby amended by inserting after chapter 94F the following chapter:

**CHAPTER 94G****REGULATION OF THE USE AND DISTRIBUTION OF MARIJUANA NOT MEDICALLY PRESCRIBED****Section 1. Definitions**

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Consumer", a person who is at least 21 years of age.

(b) "Controlling person", an officer, board member or other individual who has a financial or voting interest of 10 per cent or greater in a marijuana establishment.

(c) "Commission", the cannabis control commission established by section 76 of chapter 10 of the General Laws.

(d) "Experienced marijuana establishment operator", (i) a medical marijuana treatment center as defined in chapter 369 of the acts of 2012 with a registration in good standing, or (ii) a reorganized marijuana business established by a vote of at least 2/3 of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the department of public health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health before the effective date of this chapter.

(e) "Hemp", the plant of the genus *Cannabis* or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus *Cannabis*, or per volume or weight of marijuana product, or the combined per cent of delta-9-

## QUESTION 4: Law Proposed by Initiative Petition

## FULL TEXT OF QUESTION (continued)

tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus *Cannabis* regardless of moisture content.

(f) "Manufacture", to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

(g) "Marijuana" or "Marihuana", all parts of any plant of the genus *Cannabis*, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(2) Hemp; or

(3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

(h) "Marijuana accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

(i) "Marijuana cultivator", an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

(j) "Marijuana establishment", a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

(k) "Marijuana product manufacturer", an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

(l) "Marijuana products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients

that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

(m) "Marijuana testing facility", an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

(n) "Marijuana retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

(o) "Process" or "processing", to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in subsection (f) of this section.

(p) "Unreasonably impracticable", that the measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this chapter subject licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

## Section 2. Limitations

(a) Operating under the influence. This chapter does not amend existing penalties for operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery while impaired by marijuana or a marijuana product or for consuming marijuana while operating, navigating or being in actual physical control of any motor vehicle, train, aircraft, motorboat or other motorized form of transport or machinery.

(b) Transfer to or possession by a person under 21 years of age. This chapter shall not be construed to permit the knowing transfer of marijuana, marijuana products or marijuana accessories, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to possess, use, purchase, obtain, cultivate, process, manufacture, deliver or sell or otherwise transfer marijuana or marijuana accessories.

(c) Manufacture of products. Unless done pursuant to a marijuana product manufacturer license issued by the commission, this chapter does not authorize a person to manufacture marijuana or hemp by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(d) Properly. This chapter shall not be construed to:

(1) prevent a person from prohibiting or otherwise regulating the consumption, display, production,

QUESTION 4: Law Proposed by Initiative Petition

FULL TEXT OF QUESTION (continued)

processing, manufacture or sale of marijuana and marijuana accessories on or in property the person owns, occupies or manages, except that a lease agreement shall not prohibit a tenant from consuming marijuana by means other than smoking on or in property in which the tenant resides unless failing to do so would cause the landlord to violate a federal law or regulation;

(2) prevent the commonwealth, a subdivision thereof or local government agency from prohibiting or otherwise regulating the possession or consumption of marijuana or marijuana accessories within a building owned, leased or occupied by the commonwealth, a political subdivision of the commonwealth or an agency of the commonwealth or a political subdivision of the commonwealth; or

(3) authorize the possession or consumption of marijuana or marijuana accessories on the grounds of or within a public or private school where children attend classes in preschool programs, kindergarten programs or grades 1 to 12, inclusive, or on the grounds of or within any correctional facility.

(e) Employment. This chapter shall not require an employer to permit or accommodate conduct otherwise allowed by this chapter in the workplace and shall not affect the authority of employers to enact and enforce workplace policies restricting the consumption of marijuana by employees.

(f) Negligent conduct. This chapter shall not amend existing penalties for conduct involving the performance of any task while impaired by marijuana that would constitute negligence or professional malpractice and shall not prevent the imposition of any civil, criminal or other penalty for such conduct.

(g) Relation to medical use of marijuana. This chapter shall not be construed to affect the provisions of chapter 369 of the acts of 2012, relating to the medical use of marijuana as enacted by the people in the state election in 2012.

(h) Adulteration and misbranding. This chapter shall not exempt marijuana or marijuana products from sections 186 to 195, inclusive, of chapter 94 of the General Laws, relating to the adulteration and misbranding of food, drugs and various articles. Marijuana included in a marijuana product manufactured in compliance with the regulations under this chapter shall not be considered an adulterant.

Section 3. Local control

(a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not

unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter and that:

(1) govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories, except that zoning ordinances or by-laws shall not prohibit placing a marijuana establishment which cultivates, manufactures or sells marijuana or marijuana products in any area in which a medical marijuana treatment center is registered to engage in the same type of activity;

(2) limit the number of marijuana establishments in the city or town, except that a city or town may only adopt an ordinance or by-law by a vote of the voters of that city or town if the ordinance or by-law:

(i) prohibits the operation of 1 or more types of marijuana establishments within the city or town;

(ii) limits the number of marijuana retailers to fewer than 20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws; or

(iii) limits the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the city or town.

(3) restrict the licensed cultivation, processing and manufacturing of marijuana that is a public nuisance;

(4) establish reasonable restrictions on public signs related to marijuana establishments; and

(5) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this subsection, similar to a penalty imposed for violation of an ordinance or by-law relating to alcoholic beverages.

(b) The city council of a city and the board of selectmen of a town shall, upon the filing with the city or town clerk of a petition (i) signed by not fewer than 10 per cent of the number of voters of such city or town voting at the state election preceding the filing of the petition and (ii) conforming to the provisions of the General Laws relating to initiative petitions at the municipal level, request that the question of whether to allow, in such city or town, the sale of marijuana and marijuana products for consumption on the premises where sold be submitted to the voters of such city or town at the next biennial state election. If a majority of the votes cast in the city or town are not in favor of allowing the consumption of marijuana or marijuana products on the premises where sold, such city or town shall be taken to have not authorized the consumption of

**QUESTION 4: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**

marijuana and marijuana products on the premises where sold.

(c) No city or town shall prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

(d) No agreement between a city or town and a marijuana establishment shall require payment of a fee to that city or town that is not directly proportional and reasonably related to the costs imposed upon the city or town by the operation of a marijuana establishment. Any cost to a city or town by the operation of a marijuana establishment shall be documented and considered a public record as defined by clause Twenty-Sixth of section 7 of chapter 4 of the General Laws.

**Section 4. The Cannabis Control Commission**

(a) The commission shall, in consultation with the cannabis advisory board and in accordance with chapter 30A of the General Laws, adopt regulations consistent with this chapter for the administration, clarification and enforcement of laws regulating and licensing marijuana establishments. The regulations shall include:

(1) procedures for the issuance and renewal of licenses to operate marijuana establishments;

(2) a schedule of application, license and renewal fees in an amount necessary to pay for all regulation and enforcement costs of the commission; provided however that fees may be relative to the volume of business conducted or to be conducted by the marijuana establishment and shall not exceed:

(i) For an initial application, \$3,000;

(ii) For a license for a retail marijuana store, \$15,000;

(iii) For a license for a marijuana product manufacturer, \$15,000;

(iv) For a license for a marijuana cultivator, \$15,000; and

(v) For a license for a marijuana testing facility, \$10,000.

(3) qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a marijuana establishment and similar to qualifications for licensure and employment standards in connection with alcoholic beverages as regulated under chapter 138 of the General Laws; provided that a prior conviction solely for a marijuana-related offense or for a violation of section 34 of chapter 94C of the General Laws shall not disqualify an

individual or otherwise affect eligibility for employment or licensure in connection with a marijuana establishment, unless the offense involved the distribution of a controlled substance, including marijuana, to a minor;

(4) procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities;

(5) requirements for the security of marijuana establishments, including security, lighting, video and alarm requirements and requirements for the secure transportation and storage of marijuana, marijuana plants and marijuana products, provided that the requirements shall not prohibit the cultivation of marijuana outdoors or in greenhouses;

(6) requirements to prevent the sale of marijuana and marijuana products to persons under 21 years of age;

(7) requirements for record keeping by marijuana establishments and procedures to track marijuana and marijuana products cultivated, processed, manufactured, delivered or sold by marijuana establishments;

(8) health and safety standards for the cultivation, processing, manufacture and distribution of marijuana and marijuana products, including standards regarding sanitation for the preparation, storage, handling and sale of food products and reasonable limitations on the use of organic and non-organic pesticides;

(9) requirements for the packaging of marijuana and marijuana products, which shall include special packaging requirements to protect children from ingesting marijuana or marijuana products and requirements for dividing each serving within a package containing multiple servings in a manner that allows consumers to easily identify a single serving;

(10) requirements for the labeling of a package containing marijuana or marijuana products that shall include a symbol or other easily recognizable mark indicating that the package contains marijuana and an identification of the marijuana cultivator or the marijuana product manufacturer who produced the marijuana or marijuana product, and for the labeling of a package containing marijuana products, the amount of tetrahydrocannabinol in a package and in each serving of a marijuana product, the number of servings in a package and a list of ingredients and possible allergens;

(11) requirements for the testing of random samples of marijuana and marijuana products to verify

## QUESTION 4: Law Proposed by Initiative Petition

## FULL TEXT OF QUESTION (continued)

that marijuana and marijuana products are accurately labeled and to verify that products intended for human consumption do not contain contaminants that are in excess of typical standards applied to other commercially available products intended for human consumption;

(12) requirements for safe disposal of excess, contaminated, adulterated or deteriorated marijuana or marijuana products;

(13) reasonable restrictions on signs, marketing, displays and advertising with respect to marijuana, marijuana products and marijuana accessories, including prohibiting marketing or advertising designed to appeal to children;

(14) procedures and requirements to enable the transfer of a license for a marijuana establishment to another qualified person or to another suitable location, which shall not be more restrictive than laws governing the transfer of a license for the sale of alcoholic beverages under chapter 138 of the General Laws; and

(15) provisions for enforcing this chapter, including penalties for civil violations for the failure to comply with any regulation made pursuant to this section or for any violation of section 13 of this chapter; collecting fees and penalties imposed; suspending the license of a marijuana establishment that includes provisions to allow for the continued maintenance and security of any marijuana and marijuana products; terminating the license of a licensee; and appealing civil penalties or licensing actions.

(b) In furtherance of the intent of this act, the commission may also adopt regulations in accordance with chapter 30A of the General Laws which:

(1) establish and provide for issuance of additional types or classes of licenses to operate marijuana-related businesses, including licenses that authorize only limited cultivation, processing, manufacture, possession or storage of marijuana or marijuana products, limited delivery of marijuana or marijuana products to consumers, licenses that authorize the consumption of marijuana or marijuana products on the premises where sold, licenses that authorize the consumption of marijuana at special events in limited areas and for a limited time and licenses intended to facilitate scientific research or education;

(2) regulate the cultivation, processing, distribution and sale of hemp by marijuana establishments; and

(3) limit the total amount of marijuana cultivated within the commonwealth, if the commission determines after an analysis of the current and anticipated supply of and demand for marijuana and marijuana products, that a limit on the amount of marijuana cultivated within the

commonwealth is necessary to minimize illicit markets for marijuana. If the commission limits the total amount of marijuana that may be cultivated within the commonwealth, the commission shall reconsider that determination biannually and shall not set the limit at a level below that which is necessary to provide an adequate supply of marijuana and marijuana products in the commonwealth. No such limit shall be imposed if the import or export of marijuana to or from the commonwealth is not prohibited by federal law.

(c) Regulations made pursuant to this section shall not:

(1) prohibit the operation of a marijuana establishment either expressly or through regulations that make operation of a marijuana establishment unreasonably impracticable;

(2) require testing of marijuana or marijuana products before the commission has licensed any marijuana testing facilities or, if such facilities have been licensed, before such facilities are capable of performing any required tests in a timely manner;

(3) require a customer to provide a marijuana retailer with identifying information other than identification to determine the customer's age and shall not require the marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction;

(4) prohibit a medical marijuana treatment center and an experienced marijuana establishment operator from operating a medical marijuana treatment center and a marijuana establishment at a shared location;

(5) prohibit marijuana establishments from transferring or acquiring marijuana seeds, clones, cuttings, plants or plant tissue from other marijuana establishments or from medical marijuana treatment centers or prohibit a marijuana establishment from transferring or otherwise selling marijuana to a marijuana retailer, a marijuana product manufacturer or a marijuana cultivator; or

(6) prohibit marijuana establishments from using inorganic cultivation methods.

(d) The commission shall administer the laws and regulations relating to licensing in this chapter.

(e) The commission may suspend or revoke the license of a licensee under regulations made pursuant to this chapter upon written notice of a violation and, if applicable, an opportunity to cure any violation within 30 days of such notice. All licensees shall be entitled to an adjudicatory hearing pursuant to chapter 30A of the General Laws prior to suspension of a license for longer than 5 days or the revocation of a license.

QUESTION 4: Law Proposed by Initiative Petition

FULL TEXT OF QUESTION (continued)

(f) The commission shall enforce the laws and regulations relating to the cultivation, processing, manufacture, delivery, storage, sale and testing of marijuana and marijuana products by marijuana establishments. The commission shall conduct investigations of compliance with this chapter and shall perform regular inspections of marijuana establishments and the books and records of marijuana establishments as necessary to enforce this chapter. The commission shall cooperate with appropriate state and local organizations to provide training to law enforcement officers of the commonwealth and its political subdivisions.

(g) The commission shall hold a public hearing before the adoption, amendment or repeal of any regulation. Adjudicatory proceedings shall be conducted pursuant to chapter 30A of the General Laws and to standard rules of adjudicatory procedure established pursuant to section 9 of chapter 30A of the General Laws.

(h) The commission shall annually publish a full report of its action during each year containing a comprehensive description of its activities and including the number of licenses of each class issued, actions taken pursuant to clause (4) of subsection (a) of this section and a statement of revenue and expenses of the commission.

(i) The commission shall annually review the tax rate established by chapter 64N of the General Laws and may make recommendations to the General Court as appropriate regarding changes to the tax rate that further the intent of this act. The commission may study marijuana commerce and make recommendations to the General Court regarding changes in the laws of the commonwealth that further the intent of this act by filing those recommendations with the clerk of the house and senate who shall forward the recommendations to the joint committee on consumer protection and professional licensure, the joint committee on revenue and any other committee deemed appropriate by the commission.

(j) The commission shall deposit all license, registration and monetary penalties collected pursuant to this chapter in the Marijuana Regulation Fund established by section 15 of this chapter.

(k) The commission and the department of public health shall work collaboratively to ensure that the production and distribution of marijuana is effectively regulated in the commonwealth in furtherance of the intent of this act.

Section 5. Licensing of marijuana establishments

(a) Upon receipt of a complete marijuana establishment license application and the application fee,

the commission shall forward a copy of the application to the city or town in which the marijuana establishment is to be located, determine whether the applicant and the premises qualify for the license and has complied with this chapter and shall, within 90 days:

(1) issue the appropriate license; or

(2) send to the applicant a notice of rejection setting forth specific reasons why the commission did not approve the license application.

(b) Except as provided in subsection (c) of this section, the commission shall approve a marijuana establishment license application and issue a license if:

(1) the prospective marijuana establishment has submitted an application in compliance with regulations made by the commission, the applicant satisfies the requirements established by the commission, the applicant is in compliance with this chapter and the regulations made by the commission and the applicant has paid the required fee;

(2) the commission is not notified by the city or town in which the proposed marijuana establishment will be located that the proposed marijuana establishment is not in compliance with an ordinance or by-law consistent with section 3 of this chapter and in effect at the time of application;

(3) the property where the proposed marijuana establishment is to be located, at the time the license application is received by the commission, is not located within 600 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a city or town adopts an ordinance or by-law that reduces the distance requirement; and

(4) an individual who will be a controlling person of the proposed marijuana establishment has not been convicted of a felony or convicted of an offense in another state that would be a felony in the commonwealth, except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.

(c) If a city or town limits the number of marijuana establishments that may be licensed in the city or town pursuant to clause (2) of subsection (a) of section 3 of this chapter and that limit prevents the commission from issuing a license to all applicants who meet the requirements of subsection (b) of this section:

(1) until January 1, 2018, the commission shall issue licenses first to applicants with the most experience operating medical marijuana treatment centers and then by

QUESTION 4: Law Proposed by Initiative Petition

FULL TEXT OF QUESTION (continued)  
lottery among qualified applicants; or

(2) on and after January 1, 2018, the commission shall issue licenses by lottery among qualified applicants.

The lottery shall also designate the priority order of unselected applicants in the event that a license becomes available within a year.

Section 6. Expiration and renewal

(a) License term. Unless the commission authorizes the renewal of a license for a longer period, all licenses under this chapter shall be effective for 1 year from the date of issuance.

(b) Renewal. The commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a marijuana establishment to licensees in good standing and who have filed any tax returns required pursuant to chapter 64N of the General Laws.

Section 7. Personal use of marijuana

(a) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for:

(1) possessing, using, purchasing, processing or manufacturing 1 ounce or less of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate;

(2) within the person's primary residence, possessing up to 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and possessing, cultivating or processing not more than 6 marijuana plants for personal use so long as not more than 12 plants are cultivated on the premises at once;

(3) assisting another person who is 21 years of age or older in any of the acts described in this section; or

(4) giving away or otherwise transferring without remuneration up to 1 ounce of marijuana, except that not more than 5 grams of marijuana may be in the form of marijuana concentrate, to a person 21 years of age or older, as long as the transfer is not advertised or promoted to the public.

(b) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, if the import or export of marijuana to or from the

commonwealth is not prohibited by federal law, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified under the laws of the commonwealth in any manner, or denied any right or privilege and shall not be subject to seizure or forfeiture of assets for possessing, using, purchasing, cultivating, processing or manufacturing any amount of marijuana or marijuana products for personal use.

(c) Notwithstanding any other general or special law to the contrary, except as otherwise provided in this chapter, a person shall not be arrested, prosecuted, penalized, sanctioned or otherwise denied any benefit and shall not be subject to seizure or forfeiture of assets for allowing property the person owns, occupies or manages to be used for any of the activities conducted lawfully under this chapter or for enrolling or employing a person who engages in marijuana-related activities lawfully under this chapter.

(d) Absent clear, convincing and articulable evidence that the person's actions related to marijuana have created an unreasonable danger to the safety of a minor child, neither the presence of cannabinoid components or metabolites in a person's bodily fluids nor conduct permitted under this chapter related to the possession, consumption, transfer, cultivation, manufacture or sale of marijuana, marijuana products or marijuana accessories by a person charged with the well-being of a child shall form the sole or primary basis for substantiation, service plans, removal or termination or for denial of custody, visitation or any other parental right or responsibility.

(e) The use of marijuana shall not disqualify a person from any needed medical procedure or treatment, including organ and tissue transplants.

(f) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and is not subject to seizure or forfeiture of assets for possessing, producing, processing, manufacturing, purchasing, obtaining, selling or otherwise transferring or delivering hemp.

(g) For the purposes of this section, "marijuana concentrate" shall mean the resin extracted from any part of the plant of the genus *Cannabis* and every compound, manufacture, salt, derivative, mixture or preparation of that resin but shall not include the weight of any other ingredient combined with marijuana to prepare marijuana products.

Section 8. Marijuana accessories authorized

Notwithstanding any general or special law to the contrary,

**QUESTION 4: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**

except as otherwise provided in this chapter, a person 21 years of age or older shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for possessing, purchasing or otherwise obtaining or manufacturing marijuana accessories or for selling or otherwise transferring marijuana accessories to a person who is 21 years of age or older.

**Section 9. Lawful operation of marijuana establishments**

(a) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, the following people involved in the distribution of marijuana as authorized by this chapter shall not be arrested, prosecuted, penalized, sanctioned or disqualified and shall not be subject to seizure or forfeiture of assets for activities specified for:

- (1) a marijuana retailer or an owner, operator, employee or other agent acting on behalf of a marijuana retailer possessing or testing marijuana or marijuana products; purchasing, selling or otherwise transferring or delivering marijuana or marijuana products to or from a marijuana establishment; or selling or otherwise transferring or delivering marijuana or marijuana products to a consumer;
  - (2) a marijuana cultivator or an owner, operator, employee or other agent acting on behalf of a marijuana cultivator cultivating, propagating, breeding, harvesting, processing, packaging, testing, storing or possessing marijuana or marijuana products, or selling or otherwise transferring, purchasing or delivering marijuana and marijuana products to or from a marijuana establishment;
  - (3) a marijuana product manufacturer or an owner, operator, employee or other agent acting on behalf of a marijuana product manufacturer packaging, processing, manufacturing, storing, testing or possessing marijuana or marijuana products, or delivering, selling or otherwise transferring and purchasing marijuana or marijuana products to or from a marijuana establishment; or
  - (4) a marijuana testing facility or an owner, operator, employee or other agent acting on behalf of a marijuana testing facility possessing, processing, storing, transferring or testing marijuana or marijuana products.
- (b) Notwithstanding any general or special law to the contrary, except as otherwise provided in this chapter, a person acting in the person's capacity as an owner, employee or other agent of a marijuana retailer who transfers marijuana or marijuana accessories to a person under 21 years of age shall not be subject to arrest or prosecution, penalty, sanction or disqualification, or seizure

or forfeiture of assets, if the person reasonably verified that the recipient appeared to be 21 years of age or older by means of government-issued photographic identification containing a date of birth.

**Section 10. Contracts pertaining to marijuana enforceable**

It is the public policy of the commonwealth that contracts related to the operation of marijuana establishments under this chapter shall be enforceable. A contract entered into by a licensee or its agents as permitted pursuant to a valid license issued by the commission, or by those who allow property to be used by a licensee or its agents as permitted pursuant to a valid license issued by the commission, shall not be unenforceable or void exclusively because the actions or conduct permitted pursuant to the license is prohibited by federal law.

**Section 11. Provision of professional services**

A person engaged in a profession or occupation subject to licensure shall not be subject to disciplinary action by a professional licensing board solely for providing professional services to prospective or licensed marijuana establishments related to activity under this chapter that is not subject to criminal penalty under the laws of the commonwealth.

**Section 12. General marijuana establishment operation**

(a) In addition to requirements established by regulation pursuant to section 4 of this chapter or by a city or town pursuant to section 3 of this chapter, a marijuana establishment shall:

- (1) secure every entrance to the establishment so that access to areas containing marijuana is restricted to employees and others permitted by the marijuana establishment to access the area and to agents of the commission or state and local law enforcement officers and emergency personnel; and
  - (2) secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana products and marijuana accessories.
- (b) No marijuana establishment may cultivate, process, test, store or manufacture marijuana or marijuana products at any location other than at a physical address approved by the commission and within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the marijuana establishment to access the area. A greenhouse or outdoor marijuana cultivation area shall have sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals, including perimeter security fencing designed to prevent unauthorized entry.

**QUESTION 4: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**

(c) No marijuana establishment shall allow cultivation, processing, manufacture, sale or display of marijuana or marijuana products to be visible from a public place without the use of binoculars, aircraft or other optical aids.

(d) No marijuana establishment shall refuse representatives of the commission the right at any time of operation to inspect the entire licensed premises or to audit the books and records of the marijuana establishment.

(e) No marijuana establishment shall allow any person under 21 years of age to volunteer or work for the marijuana establishment.

(f) No marijuana establishment shall cultivate, manufacture, sell or otherwise transact business with any products containing cannabinoids other than those that were produced, distributed and taxed in compliance with this chapter.

**Section 13. Penalties**

(a) Restrictions on personal cultivation. No person shall cultivate or process marijuana plants pursuant to section 7 of this chapter if the plants are visible from a public place without the use of binoculars, aircraft or other optical aids or cultivate or process marijuana plants outside of an area that is equipped with a lock or other security device. A person who violates this subsection shall be punished by a civil penalty of not more than \$300 and forfeiture of the marijuana, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(b) Restrictions on personal possession. No person shall possess more than 1 ounce of marijuana or marijuana products within the person's place of residence pursuant to section 7 of this chapter unless the marijuana and marijuana products are secured by a lock. A person who violates this subsection shall be punished by a civil penalty of not more than \$100 and forfeiture of the marijuana.

(c) Restrictions on public consumption of marijuana. No person shall consume marijuana in a public place or smoke marijuana where smoking tobacco is prohibited. A person who violates this subsection shall be punished by a civil penalty of not more than \$100. This subsection shall not apply to a person who consumes marijuana or marijuana products in a designated area of a marijuana establishment located in a city or town that has voted to allow consumption on the premises where sold and shall not be construed to limit the medical use of marijuana.

(d) Possession of marijuana in motor vehicles. No person shall, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access

as invitees or licensees, possess an open container of marijuana or marijuana products in the passenger area of any motor vehicle. A person who violates this subsection shall be punished by a civil penalty of not more than \$500. For purposes of this section, "open container" shall mean that the package containing marijuana or marijuana products has its seal broken or from which the contents have been partially removed or consumed and "passenger area" shall mean the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or passenger while in a seated position; provided however that the passenger area shall not include a motor vehicle's trunk, locked glove compartment or the living quarters of a house coach or house trailer, or if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

(e) Possession or cultivation of excess marijuana. Notwithstanding chapter 94C of the General Laws and until the import or export of marijuana to or from the commonwealth is not prohibited by federal law, a person who is at least 21 years of age and who cultivates more than 6 but not more than 12 marijuana plants or who possesses an amount of marijuana outside of his or her place of residence having a weight of more than 1 ounce but not more than 2 ounces shall be subject only to a civil penalty of not more than \$100 and forfeiture of the marijuana not allowed by section 7 of this chapter, but shall not be subject to any other form of criminal or civil punishment or disqualification solely for this conduct.

(f) Procurement of marijuana by a person under 21 years of age. A person under 21 years of age, except a qualifying patient holding a valid registration card for the medical use of marijuana, who purchases or attempts to purchase marijuana, marijuana products or marijuana accessories, or makes arrangements with any person to purchase or in any way procure marijuana, marijuana products or marijuana accessories, or who willfully misrepresents such person's age, or in any way alters, defaces or otherwise falsifies identification offered as proof of age, with the intent of purchasing marijuana, marijuana products or marijuana accessories, shall be punished by a civil penalty of not more than \$100 and shall complete a drug awareness program established pursuant to section 32M of chapter 94C of the General Laws. The parents or legal guardian of any offender under the age of 18 shall be notified in accordance with section 32N of chapter 94C of the General Laws and the failure within 1 year of the offense of such an offender to complete a drug awareness program may be a basis for delinquency proceedings for persons under the age of 17 at the time of the person's

**QUESTION 4: Law Proposed by Initiative Petition****FULL TEXT OF QUESTION (continued)**  
offense.

(g) Enforcement. Civil penalties imposed pursuant to this section shall be enforced by utilizing the non-criminal disposition procedures provided in section 32N of chapter 94C of the General Laws.

**Section 14. Marijuana Regulation Fund**

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Marijuana Regulation Fund. It shall, subject to appropriation, consist of all monies received on account of the commonwealth as a result of applications for and licensing of marijuana establishments, all civil penalties received for violations of this chapter, revenue generated by the state tax imposed by section 2 of chapter 64N of the General Laws and interest earned or other income on balances in the fund.

(b) Subject to appropriation, the fund shall be expended first for the implementation, administration and enforcement of this chapter by the commission and by the cities and towns that authorize the operation of marijuana establishments within their jurisdictions. Subject to appropriation, at the end of a fiscal year, unexpended balances may be redeposited in the General Fund after all necessary funds are expended for the implementation, administration and enforcement of this chapter.

**SECTION 6.** Notwithstanding any general or special law to the contrary, if the cannabis control commission fails to adopt regulations necessary for the implementation of this chapter on or before January 1, 2018, each medical marijuana treatment center may begin to possess, cultivate, process, manufacture, package, purchase or otherwise obtain and test marijuana and marijuana products and may deliver, sell or otherwise transfer marijuana to any person who is at least 21 years of age until the commission adopts the regulations necessary for implementation of this chapter and begins to issue licenses to operate marijuana establishments pursuant to section 5 of this chapter.

**SECTION 7.** The state treasurer shall make the initial appointments to the cannabis control commission under section 76 of chapter 10 of the General Laws by March 1, 2017. The initial appointments shall include 1 member who shall serve an initial term of 2 years.

**SECTION 8.** The governor shall make the initial

appointments to the cannabis advisory board under section 77 of chapter 10 of the General Laws by February 1, 2017. Seven of the initial appointees, as determined by the governor, shall serve for a term of 1 year.

The cannabis advisory board shall meet not less frequently than quarterly until January 1, 2020.

**SECTION 9.** The cannabis control commission shall promulgate the initial regulations under section 4 of chapter 94G of the General Laws not later than September 15, 2017.

**SECTION 10.** The commission shall begin accepting applications:

(a) for marijuana testing facility licenses, by October 1, 2017;

(b) from each experienced marijuana establishment operator for 1 marijuana cultivator license, 1 marijuana product manufacturer license and 1 marijuana retailer license, by October 1, 2017;

(c) if fewer than 75 provisional registrations to operate medical marijuana treatment centers have been issued on October 1, 2017, from all applicants for marijuana retailer, marijuana product manufacturer and marijuana cultivator licenses, on and after January 1, 2018;

(d) from all applicants for marijuana retailer licenses or for marijuana product manufacturer licenses, on and after October 1, 2018; and

(e) from all applicants for marijuana cultivator licenses, on and after October 1, 2019.

**SECTION 11.** If the commission accepts applications pursuant to subsection (c) of section 10 of this act, it shall license no more than 75 marijuana retailers, 75 marijuana product manufacturers and 75 marijuana cultivators until additional applications are accepted pursuant to subsection (d) or subsection (e) of section 10 of this act. If this section prevents the commission from issuing licenses to all applicants who meet the requirements of this act, the commission shall issue licenses first to qualified applicants who submitted applications for registrations to operate medical marijuana treatment centers to the department of public health by October 1, 2016 and then by lottery among qualified applicants.

**SECTION 12.** This act shall take effect on December 15, 2016.

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Rules suspended, passed two readings and enrolled.

**Ordinances**

16.135 An Ordinance  
Relative to a bus  
stop on Main  
Street 312-114 -  
2nd Reading

Motion to  
approve 16.135  
in 2nd Reading

Motion Carried

**Ordinances**

16.135 An Ordinance Relative to a bus stop on Main Street 312-114 - 2nd Reading

Motion to approve ordinance on 2<sup>nd</sup> Reading made by Councilor O'Donnell and seconded by Councilor Murphy. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

The following ordinance passed second reading:

16.135 Continued

Upon the Recommendation of the Department of Public Works.

**16.135**  
**AN ORDINANCE**

**RELATIVE TO A BUS STOP ON MAIN STREET**

An Ordinance of the City of Northampton, Massachusetts. Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

SECTION 1

*That the § 312-114 of the Code of Ordinances be amended as follows:*

§ 312-114 Schedule XIII: Bus Stop.

~~Main Street North Masonic Street~~

~~A point 75 feet westerly  
from Masonic Street~~

Main Street North Masonic Street

A point 65 feet westerly  
from Masonic Street

Ordained and  
Enrolled

Rules suspended, passed two readings, ordained and enrolled.

16.136 An  
Ordinance  
relative to  
parking on Old  
South Street 312-  
109 - 2nd  
Reading

16.136 An Ordinance relative to parking on Old South Street 312-109 - 2nd Reading

Motion to  
approve 16.136  
in 2<sup>nd</sup> Reading

Motion to approve ordinance on 2<sup>nd</sup> Reading made by Councilor O'Donnell and seconded by Councilor LaBarge. The motion was approved on a roll call vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

The following ordinance passed second reading:

**16.136 Continued**

Upon the Recommendation of the Department of Public Works and Wayne Feiden.

## 16.136 AN ORDINANCE

### RELATIVE TO PARKING ON OLD SOUTH STREET

An Ordinance of the City of Northampton, Massachusetts. Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

#### SECTION 1

*That the § 312-109 of the Code of Ordinances be amended as follows:*

§ 312-109 Schedule VIII: On-Street Parking Meter Zones.

Old South Street	East	A point 300 feet southerly from Main Street	A point 150 feet northerly from Hampton Avenue	2 hours/Class 1B
Old South Street	East	A point 45 feet southerly from Main Street	A point 106 feet southerly from Main Street	2 hours/Class 1B
Old South Street	East	A point 185 feet southerly from Main Street	A point 308 feet southerly from Main Street	2 hours/Class 1B
Old South Street	East	A point 395 feet southerly from Main Street	A point 413 feet southerly from Main Street	2 hours/Class 1B

#### SECTION 2

*That § 312-102 of the Code of Ordinances be amended as by adding the following:*

§ 312-102 Schedule I: Parking Prohibited All Times.

Old South Street	Easterly	South Street	Point 110 feet southerly from Main Street
Old South Street	Easterly	A point 106 feet southerly from Main Street	A point 167 feet southerly from Main Street
Old South Street	Easterly	A point 308 feet southerly	A point 395 feet southerly

**Ordained and  
Enrolled**

Rules suspended, passed two readings, ordained and enrolled.

**16.172 An  
Ordinance to To  
amend list of  
enforcing  
officers and  
penalties for  
noncriminal  
disposition from  
Chapter 40-5 of  
the Code Book -  
Refer to  
Committee**

**16.172 An Ordinance to amend list of enforcing officers and penalties for noncriminal disposition from Chapter 40-5 of the Code Book - Refer to Committee on Legislative Matters**

16.172 ContinuedMotion to Refer to Committee

Councilor O'Donnell moved to refer to Committee on Legislative Matters; Councilor LaBarge seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

16.175 An Ordinance to amend Schedule III: Limited-Time Parking from Chapter 312 of the Code Book - Refer to Committee

16.175 An Ordinance to amend Schedule III: Limited-Time Parking from Chapter 312 of the Code Book - Refer to Committee on Legislative Matters

Motion to Refer to Committee

Councilor O'Donnell moved to refer to Committee on Legislative Matters and the Transportation and Parking Commission; Councilor Murphy seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Motion Carried

Updates from Council President and Committee Chairs

Updates from Council President and Committee Chairs

None

Information Requests (Charter Provision 2-7) and Information Study Requests

Information Requests (Charter Provision 2-7) and Information Study Requests

None

New Business

New Business: None

Adjourn

At 8:52 p.m., a motion to adjourn was made by Councilor O'Donnell and seconded by Councilor Bidwell. The vote to adjourn passed on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Attest:  Administrative Assistant to the City Council

2016-2017 City Council Record

Record of City Council Votes for October 6, 2016		Bidwell	Carney	Dwight	Klein	LaBarge	Murphy	O'Donnell	Sciara	Total
Roll Call by Pamela L. Powers, Administrative Assistant to the City Council @ 7:15 p.m.		Present	Present	Present	Absent	Present	Present	Present	Present	7 Present, 1 Absent, 1 Vacant
16.148 An Order to approve the FY2017 Residential Factor & tax levy percentages		1st Reading	Yes	Yes	Yes	Absent	Yes	Motion to Approve Yes	Second Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
16.168 A Financial Order to authorize payment of prior year bills		1st Reading	Yes	Yes	Yes	Absent	Second Yes	Yes	Motion to Approve Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
16.169 A Financial Order to amend prior authorization for borrowing on a River Road Retaining Wall project		1st Reading	Yes	Yes	Yes	Absent	Motion to Approve Yes	Second Yes	Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
Suspend Council Rules for 2nd Reading		Councilor O'Donnell moved to suspend Council Rules to allow for second reading; Councilor LaBarge seconded the motion. The motion was approved on a voice vote.								
		Yes	Yes	Yes	Absent	Yes	Motion to Approve Yes	Second Yes	Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
		2nd Reading	Yes	Yes	Absent	Yes	Motion to Approve Yes	Second Yes	Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant

Record of City Council Votes for October 6, 2016																		
	Blidwell		Carney		Dwight		Klein		LaBarge		Murphy		O'Donnell		Sciara		Total	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No		
16.170 A Financial Order to accept a donation from the Florence Mercantile totaling \$2,350 for the completion of the Trinity Park Fountain Project -	1st Reading	Yes			Yes				Absent		Second Yes		Yes		Motion to Approve Yes		Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	Suspend Council Rules for 2nd Reading	Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote.																
	2nd Reading	Yes		Yes		Yes			Absent	Yes		Motion to Approve Yes		Second Yes		Yes		Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	1st Reading	Yes		Yes		Yes			Absent	Motion to Approve Yes		Yes		Second Yes		Yes		Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
16.176 A Financial Order to authorize budgetary transfers to be made for wage adjustments in the Fire Department	1st Reading	Yes		Yes		Yes			Absent		Motion to Approve Yes		Yes		Second Yes		Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	Suspend Council Rules for 2nd Reading	Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote.																
	2nd Reading	Yes		Yes		Yes			Absent	Yes		Motion to Approve Yes		Second Yes		Yes		Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	1st Reading	Yes		Yes		Yes			Absent	Motion to Approve Yes		Yes		Second Yes		Yes		Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
16.157 A Financial Order to authorize payment of a previous year bill to Comcast in the amount of \$154.83	1st Reading	Yes		Yes		Yes			Absent		Motion to Approve Yes		Yes		Second Yes		Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	Suspend Council Rules for 2nd Reading	Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote.																
	2nd Reading	Yes		Yes		Yes			Absent	Yes		Motion to Approve Yes		Second Yes		Yes		Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	1st Reading	Yes		Yes		Yes			Absent	Motion to Approve Yes		Yes		Second Yes		Yes		Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant

Record of City Council Votes for October 6, 2016												
16.171 A Warrant for an election to be held November 8, 2016	1st Reading	Yes	Yes	Yes	Absent	Motion to Approve Yes	Yes	Yes	Second Yes	Total		
		Councilor LaBarge moved to suspend Council Rules to allow for second reading; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote.										Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
16.135 An Ordinance Relative to a bus stop on Main Street 312-114	Suspend Council Rules for 2nd Reading											Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant
	2nd Reading	Second Yes	Yes	Yes	Absent	Yes	Motion to Approve Yes	Yes	Yes	Motion to Approve Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant	
16.136 An Ordinance relative to parking on Old South Street 312-109	2nd Reading	Yes	Yes	Yes	Absent	Second Yes	Yes	Motion to Approve Yes	Yes	Motion Carried 7 Yes, 0 No, 1 Absent, 1 Vacant		

At 8:52 p.m. Councilor O'Donnell motioned to adjourn; Councilor Bidwell seconded the motion. The motion was approved on a voice vote of 7 Yes, 0 No, 1 Absent (Councilor Klein), 1 Vacant.

Recorded By:

Pamela L. Powers, Administrative Assistant to the City Council

(413) 587-1210; ppowers@northamptonma.gov